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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,820	07/15/2005	Barbara Ammer	AMMER ET A 3 PCT	8133
25889	7590	10/26/2006	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C.

Office Action Summary	Application No. 10/509,820	Applicant(s) AMMER ET AL.	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 09/30/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: identifier 7 is found in figures 1 and 2, but not defined in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

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notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the term welding seems to not be correct, since welding done to either metals or plastic, not adhesives and plastic.

Appropriate correction is required.

Claim Objections

5. Claim 5 is objected to because of the following informalities: should the term trapezoidal read “substantially trapezoidal”, since the drawings to not illustrate a perfect trapezoidal shape? Appropriate correction is required.

6. Claim 6 is objected to because of the following informalities: should the term “welding” read “bonding”? Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Oliver (US 2,818,572).

In regard to claim 1, Oliver teaches a perspiration pad (1, 2) for insertion to a user's armpit (figure 1). The perspiration pad having an absorbent pad consisting of two

mutually bendable sections (1, 2, 1a, 1b, 2a, 2b, 3a, 3b) and a self-adhesive film (4) projecting beyond the edge of the pad, characterized in that the self-adhesive film is interrupted at least in the bending region of the two sections of the pad (figures 8 and 9).

In regard to claim 5, Oliver teaches the perspiration pad provided with a trapezoid configuration (figures 8).

9. Claims 1, 3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Vadekerck (US 2,669,720).

In regard to claim 1, Vadekerck teaches a perspiration pad (10) for insertion to a user's armpit (figure 5). The perspiration pad having an absorbent pad consisting of two mutually bendable sections (figures 1 and 4) and a self-adhesive film (15) projecting beyond the edge of the pad, characterized in that the self-adhesive film is interrupted at least in the bending region of the two sections of the pad (figures 1, 2 and 4).

In regard to claim 3, Vadekerck teaches the self adhesive film (15) being applied in form of boundary strips to the edges of the pad sections (figures 1, 3, 4).

In regard to claim 6, Vadekerck teaches the self-adhesive film being bonded together with the pad in the boundary region of the pad (column 2, lines 13-31).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver in view of Bradley (US 3,345,643).

Oliver teaches a perspiration pad as described above in claim 1. However, Oliver fails to teach at least one curved bending line being provided in the bending region of the pad.

Bradley teaches a perspiration pad with at least one curved bending line being provided in the bending region of the pad.

It would have been obvious to have provided the perspiration pad of Oliver with the curved bending lines of Bradley, since the perspiration pad of Oliver provided with curved bending lines would provide even greater comfort to the user during movement when wearing the perspiration shield.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vandekerck in view of Morris (US 3,346,878).

Vandekerck teaches a perspiration pad as described above in claims 1 and 3. However, Vandekerck fails to teach the pad being covered in a liquid-tight but gas-permeable way on the side averted from the skin both between the boundary strips of the self-adhesive film as well as in the benign region.

Morris teaches a perspiration pad being covered in a liquid-tight but gas-permeable way on the side averted from the skin both between the boundary strips of the self-adhesive film as well as in the bending region (column 3, lines 1-11, lines 47-53 and column 4, lines 5-15).

It would have been obvious to have provided the perspiration pad of Vandekerck with the liquid-tight and gas permeable backing portion of Morris, since the perspiration pad of Vandekerck provided with the liquid-tight gas permeable backing portion would provide a perspiration pad that not only keeps perspiration from contacting the user's garments, but also a comfortable, breathable pad that is comfortable to wear.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and can be found cited in PTO-892 form submitted herewith.

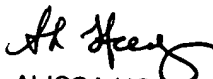
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH


ALISSA HOEY
PRIMARY EXAMINER
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